IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 373 of 1993.

Date of Decision: 17-12-2007.

State of H.P. ……..Appellant.

Versus

Govind Ram. ……..Respondent

Coram

Hon'ble Mr. Justice Surjit Singh, J.

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]? .No.

For the appellant : Mr. S.D. Vasudeva, Additional Advocate General with Mr. D. S. Nainta, Deputy Advocate General.

For respondent : None.

Surjit Singh, J. (oral)

Respondent had been working as Extra Departmental Branch Post Master in Sub Post Office Tramat, Tehsil Jogindernagar in Mandi District during the year 1986. There were allegations against him that he had been disbursing the amount of money orders to the payees after utilizing those amounts of money for quite some time. Also there were allegations against him that in some cases, thumb impressions/signatures of the payees had been forged and money payable on account of money orders had not been disbursed and instead mis-appropriated. Besides, there were allegations that the money deposited with the respondent by holders of recurring deposit accounts had not been accounted for in the Books of Accounts maintained at the sub post office, though entries were made in the Pass Books. On receipt of this complaint, a surprise checking of the records was conducted on 26.7.1986 and having found some substance in the allegations, the superior authorities placed the respondent under suspension on 28.7.1986.

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[1] Whether reporters of the Local papers are allowed to see the judgment? Yes.

Thereafter, detailed inquiry was conducted and it was found that in eleven cases, amounts of money orders had either not been disbursed to the payees or the same had been disbursed much after the dates of disbursement recorded in the books maintained in the said post office. It was also noticed that one Gopal Singh had opened a recurring deposit account in the name of his minor son Gunjan and the said Gopal Singh deposited Rs. 200/- on 25.7.1986. An entry was made in the pass book Exhibit P6 but corresponding entries were not made in the books maintained in the said post office. Similarly, two amounts of Rs. 20/- each had been deposited by Rita Devi and Smiro Devi on 26.7.1986. Entries were made in their Pass Books Ext. P16 and P18, respectively, but no corresponding entries were made in the Books maintained in the sub post office. Challan was filed against the respondent. He was charged with the offences punishable, under Section 409, 468 and 420 Indian Penal Code and on his pleading not guilty, was put on trial.

Prosecution examined sixteen witnesses to bring the charge home to the respondent. Respondent denied the allegations of forgery, embezzlement and cheating and alleged that he had been falsely implicated.

Out of several witnesses examined by the prosecution to prove the allegation of late payment of amounts of money orders to the addressees, only two supported the prosecution version. The same are Prem Kaur (PW15) and Pano Devi (PW16). Prem Kaur (PW15) stated that she had received a letter from her husband in Kuwait that a sum of rupees 320/- had been remitted by money order but when she did not receive any money, she contacted the respondent who admitted that he had mis-appropriated the money and forged her signatures on the money order form. There is on record the money order form in the name of this witness. The same is Exhibit-P14. The form purports to be thumb impressed by the witness. The witness was not shown this form nor did she say that it was not thumb impressed by her. We may notice that the witness is probably illiterate and cannot sign her name because even below the statement which she made in the

trial Court, she put her thumb impression instead of signatures. The thumb impression on this form Exhibit P14 has not been opined by any Expert to be a forged one. Therefore on the basis of the oral testimony of PW15 that her signatures had been forged or the money had not been paid to her, it cannot be said that the money had been misappropriated.

Next witness who supported the prosecution version is Pano Devi (PW16). She stated that her husband works at Delhi and she received a letter from him about his having remitted to her Rs. 500/- and that when she did not receive the money, she went to the respondent and made enquiries but was told by the respondent that the money had not been received and that she received the money two months later. Exhibit P13 is the money order form pertaining to the remittance of money to this witness by her husband. Though she denies that the form bears her signature, the prosecution did not get the signature on this form compared with the standard signature of the witness to prove the allegation that the same is a forged one. Now when she states that she had received the money two months later, her bald testimony that her purported signature on Exhibit P13 is a forged one cannot be believed. The respondent must have obtained her signatures at the time of making the payment. Other witnesses pertaining to the allegation of non-payment or late payment of amounts of money orders did not support the prosecution version.

As regards the second allegation, the respondent does not deny having received an amount of Rs. 200/- on 25.7.1986 from Gopal Singh (PW7), Rs. 20/- from Rita Devi and another sum of Rs. 20/- from Simro Devi on 26.7.1986 and having made the entries in their pass books Exhibit P6, P13 and P15, but his plea is that the amounts were received by him late in the evening and on the next following day, surprise checking was done and the records was being examined by the Inspection Team and because of that entries could not be made on 26.7.1986 and 27.7.1986 and on 28.7.1986 he was placed under suspension.

The record shows that there is no evidence that any shortage of money was found at the time of physical verification of the cash. On the contrary, the evidence on record shows that a sum of Rs. 144/- was found to be in excess. The fact suggests that this was not a case of mis-appropriation but only an omission to make entries with respect to the aforesaid three amounts in the Registers and Books maintained in the sub post office.

In view of the above said position, we find no merit in the appeal. The same is therefore dismissed.

(Surjit Singh)
Judge.

(Surinder Singh)
Judge.

December 17, 2007.
(bm)